



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,230	01/14/2004	Randal J. Jolitz	55616.107496	3265

27526 7590 03/24/2006

BLACKWELL SANDERS PEPER MARTIN LLP  
4801 Main Street  
Suite 1000  
KANSAS CITY, MO 64112

EXAMINER

CHAPMAN, JEANETTE E

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/757,230	<b>Applicant(s)</b> JOLITZ, RANDAL J.	
	<b>Examiner</b> Chapman E. Jeanette	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-18 and 21 is/are rejected.
- 7) ☐ Claim(s) 8, 9, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/14/04</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3635

Claims 2-4 are objected to for the following reasons:

- Claim 2-4: the "top surface" lacks a positive antecedent

**35 USC 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10-18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freiborg et al (6351913) in view of Freiborg et al (3913294). Freiborg discloses a ridge cap made from composite material, col. 4, lines 60-68 and that has a generally V-shape, figure 3, for use in a roofing system to cover a ridge or hip. The ridge cap comprising:

- A front section 26/28 defined by
  - A front edge
  - Two lower edges
  - A first transition edge 54
  - The two lower edges perpendicular to the front edges and the transition edge
  - A textured top surface column 4, lines 61-68
  - The type of textured design has been considered a matter of choice; one of ordinary skill in the art would have appreciated the

type of surface to impart which is commensurate with the overall design configuration

- A back section 30 defined by
  - The transition edge 54
  - Two lower edges and a back edge
  - One or both of the section may have a crushed rock surface and hence the back surface may not be textured
- The composite material is a combination of at least a polymer and a filler.

See column 4, lines 60-68

Regarding claims 6-7, 10, 17, 18 and 21: The particular dimensions of the front and backs section has been considered a matter of choice which depends on the particular dimensions of each roof; One of ordinary skill in the art would have appreciated the dimensions of each roof and would have fashion the cap appropriately

Freiborg et al lacks the back edge having a smaller length than said front edge and with said tow back section lower edge tapering form the first transition edge to the back edge. Freiborg '294 discloses a ridge cap with front and back sections 28 and 26 and a transition edge 70. The back edge having a smaller length than said front edge and with said tow back section lower edge tapering form the first transition edge to the back edge. See figure 3. It would have been obvious to one of ordinary skill in the art to modify Freiborg '609 to include the tapered back section as described above, as recited and as shown by Freiborg "294 in order to facilitate layering the caps along the roof seem.

Freiborg et al '913 discloses a roofing system in including the above and


1. at least one course of shingles coupled to said roof from the eaves of the roof to the ridges; see figures 1 and 2
2. a plurality of ridge caps coupled to the ridges of the roof

Claims 8-9 and 19-20 are objected to as depending upon a rejected claim but would be considered allowable if amended to include the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEANETTE E. CHAPMAN  
  
Jeanette Chapman  
Primary Examiner